



VOSH PROGRAM DIRECTIVE: 12-333C

ISSUED: June 1, 2006

SUBJECT: Powered Industrial Trucks (PITs), Parts 1910, 1915, 1917.1, 1918.1 and 1926; Correction

A. Purpose.

CHANGE I: This change transmitted to field personnel the final standard for powered industrial trucks developed to reduce the number of injuries and deaths occurring due to the lack of or inadequate operator training. **CHANGE II** transmitted the stay of the compliance dates for the marine terminal and longshoring industries. In **CHANGE III** a 32-year old error is corrected by deleting paragraph (m)(12) of §1910.178, which related to precautions that are required to be taken when lifting workers on certain industrial trucks. This provision was optional in the relevant American National Standards Institute (ANSI) standard which was the basis for this OSHA provision and, as such, it should not have been included by OSHA in its regulations. Therefore, paragraph (m)(12) of §1910.178 was deleted because it contained the invalidly promulgated mandatory provision on personnel lifts. **CHANGE IV** removed the subordinate paragraphs (m)(12)(i) through (m)(12)(iii), dealing with personnel lifts, to complete the removal of the invalidly adopted and, thus, unenforceable provisions.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

B. Scope.

This directive applies to all VOSH personnel, and especially to Occupational Safety Compliance personnel.

C. References.

CHANGE I: 63 FR 66238 (December 1, 1998); 64 FR 22552 (April 27, 1999); and OSHA Memorandum 98-5 (December 2, 1998); and

CHANGE II: 64 FR 46846 (August 27, 1999); and OSHA Memorandum 99-2 (October 21, 1999).

CHANGE III: 68 FR 32637 (June 3, 2003); and OSHA Standards Memorandum 03-02 (June 13, 2003).

CHANGE IV: 70 FR 57146 (September 30, 2005).

D. Cancellation.

VOSH Program Directive 12-333B (March 1, 2005).

E. Action.

Directors and Managers shall ensure that field personnel understand and comply with the standards included in this directive.

F. Effective Dates.

CHANGE I: August 15, 1999.

CHANGE II: January 20, 2000.

CHANGE III: September 1, 2003.

CHANGE IV: June 15, 2006.

G. Expiration Date.

Not Applicable.

H. Background.

CHANGE I: This final standard replaced a modest consensus standard federal OSHA adopted in 1971 which stated only that “methods shall be devised” to train operators to safely operate powered industrial trucks. The forklift training rule had been under development by federal OSHA for nearly a decade following a 1988 industry petition that called on OSHA to adopt more specific requirements to protect workers from being killed or injured in industrial truck accidents.

On May 17, 1999, the Safety and Health Codes Board adopted this final standard and its related amendments, with an effective date of August 15, 1999.

CHANGE II: The National Maritime Safety Association, Inc. (NMSA) petitioned for review of the Powered Industrial Truck Operator Training standard in the Court of Appeals as it applied to the marine terminal and longshoring industries. NMSA asked OSHA to consider that certain unique circumstances in those industries involving the use of day labor and hiring halls suggest the need for flexibility in interpreting some provisions of the new standard.

OSHA, NMSA and some of its management and labor members had been engaged in settlement negotiations to proceed. To permit time for the negotiations to proceed, OSHA and NMSA agreed to delay the court briefing schedule, and OSHA agreed to stay the compliance dates of the new Powered Industrial Truck Operator Training Standard for the marine terminals and longshoring industries from December 1, 1999 to March 1, 2000.

On November 15, 1999, the Safety and Health Codes Board adopted this stay of compliance dates for Parts 1917 and 1918 of the Powered Industrial Truck Operator Training standard, with an effective date of January 20, 2000.

CHANGE III: On May 29, 1971, OSHA published a final rule in the *Federal Register* (36 FR 10466) which adopted national consensus standards, as authorized by Congress, and established federal standards as OSHA's initial Occupational Safety and Health Standards for General Industry. The standards adopted on May 29, 1971, were intended to include only the mandatory provisions of the relevant American National Standards Institute (ANSI) or the National Fire Protection Association (NFPA) standards. The ANSI standard for Powered Industrial Trucks, ANSI B56.1-1969, was the source standard for 29 CFR 1910.178 (e) through (p), which are the relevant paragraphs of OSHA's Powered Industrial Trucks Standard.

As it was published in May 1971 and as it currently appears, the longstanding, improperly promulgated language in paragraph (m)(12) of §1910.178 contains mandatory provisions which deal with personnel lifts. The corresponding provision in the base standard, ANSI B56.1-1969, section 604L, however, did not contain mandatory language on this subject, but instead contained advisory language. OSHA, however, revised the language of the base ANSI standard in its initial adoption in 1971 and made it mandatory, too.

On June 13, 2003, the Safety and Health Codes Board adopted this corrective amendment, with an effective date of September 1, 2003.

CHANGE IV: On May 29, 1971, OSHA published a final rule adopting national consensus standards, as authorized by Congress, and established federal standards as OSHA's initial Occupational Safety and Health Standards for General Industry. These standards adopted were intended to include only the mandatory provisions of the relevant American National Standards Institute (ANSI) or the National Fire Protection Association (NFPA) standards.

The ANSI standard for Powered Industrial Trucks, ANSI B56.1-1969, was the source standard for 29 CFR 1910.178 (e) through (p). The corresponding base standard to the provisions on personnel lifts, ANSI B56.1-1969, section 604L, did not contain mandatory language, but instead contained advisory language. OSHA, however, revised the language of the base ANSI standard in its initial adoption in 1971 and made it mandatory, too. As a result, OSHA improperly promulgated the language in §1910.178 (m)(12).

On March 7, 2006, the Safety and Health Codes Board adopted this corrective amendment, with an effective date of June 1, 2006 (now June 15, 2006).

I. Summary.

CHANGE I: Federal OSHA revised its existing requirements for powered industrial truck operator training (codified at 29 CFR 1910.178(l)) and issued new requirements to improve the training of these operators. This final rule requires employers to develop training programs or hire an outside consultant to provide the required training. Once truck operators are trained, employers must certify that truck operators have been trained and documentation must be retained for potential review by OSHA compliance officers.

Because of the high incidence of job-related deaths and injury for operators of all vehicle types, the final rule covers virtually all industries that use powered industrial vehicles, including maritime, construction, and general industry, but not agricultural operations.

The final rule covers a variety of powered industrial trucks used to carry, push, pull, lift, stack, or tier material. Vehicles used for earth-moving or over-the-road hauling are not covered. To be most effective, training must address the unique characteristics of the type of vehicle(s) the employee is being trained to operate.

The following related standards were impacted by the final rule on Powered Industrial Trucks:

- 1) In paragraphs (a)(2)(x) and (b)(2)(xiv) of §1910.16, Longshoring and Marine Terminals, General Industry, §1910.16, references to powered industrial truck operator training, subpart N, §1910.178(l), were added.
- 2) A new §1915.120 entitled, Powered Industrial Truck Operator Training, was added to subpart G, Occupational Health and Environmental Control, to note that the requirements applicable to shipyard employment are identical to those in §1910.178(l).
- 3) A new paragraph (a)(2)(xiv) was added to §1917.1 to reference powered industrial truck operator training, subpart N, §1910.178(l).
- 4) A new paragraph (b)(10) was added to §1918.1, Scope and Definitions, to reference powered industrial truck operator training, subpart N, §1910.178(l).
- 5) A new paragraph (d) was added to §1926.602, Material Handling Equipment, Construction Industry, to note that the requirements applicable to construction work are identical to those in §1910.178(l).

A non-mandatory attachment, Appendix A, provides assistance to employers in understanding the specific requirements of the final rule.

The correction, published in 64 FR 22552 (April 27, 1999), addresses the compliance dates by which powered industrial truck operators must be trained and evaluated. It clarifies confusion about the phase-in schedule and the employer's obligation between the effective date of the new standard and the completion of training and evaluation dates contained in that standard. In the final rule, if the employee was hired before December 1, 1999, initial training and evaluation of that employee had to be completed by December 1, 1999. If the employee was hired after December 1, 1999, initial training and evaluation of that employee had to be completed before the employee was assigned to operate a powered industrial truck. The correction clarifies that employers must remain in compliance with the prior training standards through November 30, 1999. Employers do not have to be in compliance with the new training standard until December 1, 1999, and will not be cited for violating the new standard prior to December 1, 1999.

CHANGE II: Federal OSHA stayed the compliance date from December 1, 1999, until March 1, 2000, for the new Powered Industrial Truck Operator Training Standard as it applies to employers in Part 1917 (Marine Terminal) and in Part 1918 (Longshoring). The date of the standard by which employers in General Industry, Shipyards and Construction must comply remains December 1, 1999.

Until operators are trained and evaluated pursuant to the new standard, employers in the marine terminal and longshoring industries must remain in compliance with the pre-existing powered industrial truck

operator training requirements of §1917.27 (1998) for marine terminals (public sector only); and at §1918.98 (1998) for longshoring.

The new standard is made applicable to marine terminals by cross reference from §1917.1(a)(2)(xiv) and to longshoring by §1918.1(b)(10). These two paragraphs have been followed by a notice of the stay.

CHANGE III: This amendment corrects a 32-year old error by deleting paragraph (m)(12) from §1910.178, covering the use of powered industrial trucks to lift personnel. This paragraph was deleted because it was invalidly promulgated in 1971 as a mandatory provision from a non-mandatory provision of a national consensus standard. As a result, it is legally unenforceable.

CHANGE IV: On June 2, 2003, OSHA corrected a 22-year old error by deleting subsection (m)(12) from the Powered Industrial Trucks Standard, §1910.178, covering the use of powered industrial trucks to lift personnel. Section 1910.178 (m)(12) was deleted because it had been invalidly promulgated in 1971 from a non-mandatory provision of a national consensus standard into a mandatory standard. As a result, OSHA determined that paragraph (m)(12) was legally unenforceable (68 FR 32637).

This current change completes the 2003 correction by removing and reserving the subordinate paragraphs, (i) through (iii), of paragraph (m)(12) of §1910.178.

The affected paragraphs formerly read as follows:

“Paragraph (m) Truck operations.

(12) [Reserved]

(i) Use of a safety platform firmly secured to the lifting carriage and/or forks.

(ii) Means shall be provided whereby personnel on the platform can shut off power to the truck.

(iii) Such protection from falling objects as indicated necessary by the operating conditions shall be provided.”

C. Ray Davenport
Commissioner

Attachments: CHANGE I: None. 63 FR 66238 (December 1, 1998);
http://www.osha.gov/FedReg_oshapdf/FED19981201.pdf

None. 64 FR 22552 (April 27, 1999);
http://www.osha.gov/FedReg_oshapdf/FED19990427.pdf

CHANGE II. None. 64 FR 46846 (August 27, 1999); and
http://www.osha.gov/FedReg_oshapdf/FED19990827.pdf

CHANGE III: 68 FR 32637 (June 3, 2003)

http://www.osha.gov/FedReg_osha_pdf/FED20030602A.pdf

CHANGE IV: 70 FR 57146 (September 30, 2005). For Background, see CHANGE III

http://www.osha.gov/FedReg_osha_pdf/FED20050930.pdf

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**16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, §1910.178, and Related
Amendments to 16 VAC 25-90-1910.16, 16 VAC 25-100-1915.120,
16 VAC 25-120-1917.1, 16 VAC 25-120-1918.1, and 16 VAC 25-175-1926.602**

As Adopted by the
Safety and Health Codes Board

Date: May 17, 1999



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: August 15, 1999

16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, §1910.178, and Related Amendments to:

16 VAC 25-90-1910.16, Longshoring and Marine Terminals, General Industry, §1910.16;
16 VAC 25-100-1915.120, Powered Industrial Trucks, Shipyard Employment, §1915.120;
16 VAC 25-120-1917.1, Marine Terminals Standard, Public Sector Only, §1917.1;
16 VAC 25-120-1918.1, Scope and Application, Longshoring, §1918.1; and
16 VAC 25-175-1926.602, Material Handling Equipment, Construction Industry, §1926.602

When the regulations, as set forth in the final rule for and correction to 16 VAC 25-90-1910.178, Powered Industrial Truck Operator Training, General Industry, §1910.178, and Related Amendments to 16 VAC 25-90-1910.16, 16 VAC 25-100-1915.120, 16 VAC 25-120-1917.1, 16 VAC 25-120-1918.1, and 16 VAC 25-175-1926.602, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
March 1, 1999	August 15, 1999
April 27, 1999	August 15, 1999

Implementation Schedule

Adoption date	May 17, 1999
Effective date	August 15, 1999
Effective date of Amendment	August 15, 1999

Compliance Dates: *The dates by which powered industrial truck operators must be trained and evaluated pursuant to the new standard shown on the following table.*

If the employee was hired	The initial training and evaluation of that employee must be completed
Before December 1, 1999.	By December 1, 1999.

If the employee was hired	The initial training and evaluation of that employee must be completed
After December 1, 1999.	Before the employee is assigned to operate a powered industrial truck.

**POWERED INDUSTRIAL TRUCK OPERATOR TRAINING, FINAL RULE,
PARTS 1917 AND 1918; STAY OF COMPLIANCE DATES**

As Adopted by the
Safety and Health Codes Board

Date: November 15, 1999



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: January 20, 2000

16 VAC 25-120-1917.1, Marine Terminals Standard, Public Sector Only, §1917.1
16 VAC 25-130-1918.1, Scope and Application, Longshoring, §1918.1

When the regulations, as set forth in this revision to the final rule for Powered Industrial Truck Operator Training, Parts 1917 and 1918, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and
Industry

Agency

Department

August 27, 1999

January 20, 2000

Implementation Schedule for Marine Terminals and Longshoring Industries

March 1, 2000

March 1, 2000

**16 VAC 25-90-1910.178, POWERED INDUSTRIAL TRUCKS, GENERAL INDUSTRY, FINAL RULE,
§1910.178; TECHNICAL AMENDMENT**

As Adopted by the
Safety and Health Codes Board

Date: June 13, 2003



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: September 1, 2003

16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, §1910.178

When the regulations, as set forth in the technical amendment to the final rule for 16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, §1910.178, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and
Industry

Agency

Department

July 2, 2003

September 1, 2003

16 VAC 25-90-1910.178, POWERED INDUSTRIAL TRUCKS, §1910.178

As Adopted by the
Safety and Health Codes Board

Date: March 7, 2006



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: June 15, 2006

16 VAC 25-90-1910.178

When the regulations, as set forth in the amendment to the standard for 16 VAC 25-90-1910.178, Powered Industrial Trucks, §1910.178, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

September 30, 2005

June 15, 2006

http://www.osha.gov/FedReg_osha_pdf/FED20050930.pdf